

Notice of Allowability

Application No.

09/609,777

Examiner

Jonathan Ouellette

Applicant(s)

BURKE, BERTRAM V.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 9/1/2004.
2. ☒ The allowed claim(s) is/are 1-15, 17-19, 21 and 31-55.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

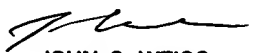
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 9.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. The application has been amended as follows:
3. **Reference to Co-Pending Applications:**

***Change*, "This is a Continuation In Part of my co-pending applications Serial Number 08/018,821 filed on February 18, 1993, Serial Number 08/172,221 filed December 23, 1993, Serial Number 08/429,758 filed April 27, 1995, and Serial Number 08/493,396 filed June 22, 1995."**

***To*, "This is a Continuation In Part of my co-pending applications Serial Number 08/018,821 filed on February 18, 1993, now abandoned, Serial Number 08/172,221 filed December 23, 1993, now abandoned, Serial Number 08/429,758 filed April 27, 1995, Pat. No. 6,112,191, and Serial Number 08/493,396 filed June 22, 1995, now abandoned."**

Response to Amendment

4. Claims 16, 20, and 22-30 have been cancelled, and Claims 32-55 have been added; therefore, Claims 1-15, 17-19, 21, and 31-55 are currently pending in application 09/609,777.

Terminal Disclaimer

5. The terminal disclaimer filed on 8/23/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second application number 09/611,905 filed on July 7, 2000, of any patent on the pending second application, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

6. The rejection of Claims 1-15, 17-19, 21 and 31 under 35 U.S.C. 103(a) as being unpatentable over Winn-Dixie ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989) in view of Fukatsu (US 5,302,811) is withdrawn due to applicants amendments and arguments.

Response to Arguments

7. Applicant's arguments with respect to claims 1-15, 17-19, 21, and 31-55 have been considered and are deemed persuasive.

Allowable Subject Matter

8. Claims 1-15, 17-19, 21, and 31-55 are allowed.

9. The following is an examiner's statement of reasons for allowance:

10. As per independent Claims 1, 13, and 31, the prior art does not teach or suggest a computer system (in a computer system, a POS operating method) comprising: a processor remote from said entry station and responsive to said code reader or keyboard for applying at least a part of the excess to an account or accounts *on the basis of said identifier (coded identifier) of said transactor, wherein the account or accounts in which the excess is placed is determined by the transactor; and said account or accounts being identified independent of data in the remote input* as described in the independent claims, and the detailed means further described in the specification.
11. Winn-Dixie ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989) teaches a system comprising: an entry station (cash register) for entering an amount corresponding to a sum being offered in a transaction; a calculating device in the remote input for recording an excess from amounts in the transaction; a processor remote from said entry station and responsive to said keyboard for applying at least a part of the excess to an account (donation account) ("Winn-Dixie and the Salvation Army Team Up to Fight Hunger Across the Sunbelt," PR Newswire, January 19, 1989).
12. However, Winn-Dixie fails to expressly disclose wherein said entry station including a code reader or a keyboard for receiving an identifier that identifies a transactor in the transaction, and/or a processor remote from said entry station and responsive to said code

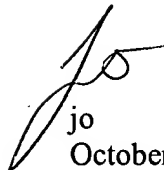
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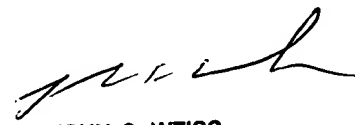
reader or keyboard for applying at least a part of the excess to an account or accounts on the basis of said identifier of said transactor, wherein the account or accounts in which the excess is placed maintains a record of excesses placed by the transactor; and said account or accounts being identified independent of data in the remote input.

13. Fukatsu (US 5,302,811) teaches an entry station including a card reader or a keyboard for receiving an identifier that identifies a transactor in the transaction (Abstract, Fig 2, Fig 19, Fig 20A-20B, C2 L35-49, C3 L49-66, Claim 2).
14. However, Fukatsu fails to teach a calculating device in the remote input for recording an excess from amounts in the transaction; a processor remote from said entry station and responsive to said code reader or keyboard for applying at least a part of the excess to an account or accounts on the basis of said identifier of said transactor, wherein the account or accounts in which the excess is placed maintains a record of excesses placed by the transactor; and said account or accounts being identified independent of data in the remote input. The combination of the point of sale (POS) systems provided by both Winn-Dixie and Fukatsu would still not teach (or provide the basis for obviousness) all the features described in the independent claims.
15. The remaining dependent Claims 2-12, 14, 15, 17-19, 21, and 32-55 are considered allowable, as they are dependent and based off of an allowable independent claim.
16. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.
19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.


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October 18, 2004


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600